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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington DC 20554

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In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	CC Docket No. 96-263
	)	

COMMENTS OF HARRIS, SKRIVAN & ASSOCIATES, LLC  
IN THE NOTICE OF PROPOSED RULEMAKING

Harris, Skrivan & Associates, LLC, provides regulatory and financial consulting services to Independent Telephone Companies throughout the United States.

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## **SUMMARY OF HARRIS, SKRIVAN & ASSOCIATES COMMENTS**

Harris, Skrivan & Associates, LLC (HSA), represents the interests of rural telephone companies throughout the United States. The Notice of Proposed Rulemaking in Access Charge Reform (Notice) seeks comments on a comprehensive review of access charge issues. The primary focus of the Notice is on price cap carriers, though several of the proposed changes will directly impact rate-of-return carriers. HSA comments on the issues related to rate-of-return carriers, but recognizes that the other issues will eventually have at least some application to rate-of-return local exchange carriers (LECs).

HSA agrees the access rules should be revised in order to be consistent with the Recommended Order in the FCC's USF proceeding. HSA agrees with the general provisions of the Notice that the existing Local Transport Rate Structure is appropriate and should be continued in its general format. HSA notes that the costs represented by the Transport Interconnection Charge (TIC) are real and represent in-service transport facilities. Therefore, especially for rural companies, the FCC should not eliminate recovery of any portion of these costs.

The Notice addresses many changes, restructures and even new access rate elements. While these further refinements may be appropriate to large urban markets, they offer no little or no benefit to rural telephone companies, their customers or their competitors. Therefore, the FCC should provide options for simplified access structures for rural telephone companies. Thus, the small benefits which may be achieved from sophisticated rate structures will not overpower the costs of compliance.

The Notice proposes changes in Common Line rates and rate structures. For rural telephone companies, it would not be in the public interest to remove the cap from End User Common Line (EUCL) Rates for second residential lines and multi-line businesses. This would have the likely effect of eliminating second residential lines and discouraging multi-line businesses from located in such rural areas. Combined with recommended actions from the USF proceeding, these rules could be devastating to rural communities, and, in fact, cause an overall increase in the cost of service.

## **GENERAL COMMENTS**

HSA agrees it is important to structure rules in such a manner as to foster correct economic decisions by the market. This can best be accomplished when pricing of services is consistent with the manner in which costs are incurred. However, this goal must be balanced against other equally important considerations. This would include such considerations as universal service, rights to pricing flexibility and fairness to incumbent LECs. Incumbent LECs have investments which cannot be recovered through TELRIC pricing.

The FCC has a tremendous challenge to design rules to meet requirements of the 1996 Act. For example, the Act requires geographically averaged toll pricing, but also requires pricing based on costs. The FCC's requirement for geographically deaveraged interconnection pricing will make it more difficult for interexchange carriers (IXCs) to comply with the geographic rate averaging requirements of the 1996 Act.

The FCC's stated goal in this proceeding is the "adoption of revisions to our access charge rules that will foster competition for these services and enable marketplace forces to eliminate the need for price regulation of these services." (See paragraph 14) The FCC should consider how this goal is balanced against customer service, universal service and fairness, particularly in rural markets. Otherwise, the Commission may find it has met its goal to introduce competition, but that the public interest is not being met.

The FCC suggests access pricing should differ for residential, single line business and multi-line businesses. We are not sure how switching and transport costs behave differently depending on whether the call originates from a residential, single line business or multi-line business customer. However, if peak pricing concepts are adopted, it is possible that different classes of customers could have greater impacts on peak traffic loads. (See paragraph 15.)

The Notice, in paragraph 75, addresses questions related to the establishment of new rate elements for call-setup charges. HSA does not object to this, but suggests that the interests of the public would be served better if this element were made optional for rural telephone companies.

#### **COMMENTS ON CHANGES RELATED TO RECOMMENDED USF ORDER**

HSA agrees access rules should be revised to reflect USF changes. However, it is only possible to comment on the Recommended USF Order, since final rules have not been issued.

#### **COMMENTS ON TRANSPORT RATE STRUCTURE**

In paragraph 26 of its NPRM, the FCC states "that an incumbent LECs provision of transport and local switching for terminating interstate traffic is functionally the same as its provision of transport and termination service under the 1996 Act." While this may be true, it does not necessarily require identical cost recovery techniques.

As the FCC has noted, the costs associated with loop plant is a cost common to local and toll services. Therefore, under economic theory, both local and toll services must make contributions to cover loop costs. For local interconnection, the LECs are already recovering most or all of the local portion of their loop costs through local service rates. Therefore, there is no need for local interconnection rates to contribute to loop costs. However, for access services, the interstate portion of the loop is only partially recovered through End User Common Line Charges. And, while the EUCL may be "interstate" in definition, it has the practical effect of being a local service rate, not a toll service rate. It is, therefore, appropriate for access customers to pay for a portion of the loop costs assigned to toll services. As the FCC notes, it may be more appropriate for access customers (IXCs) to make such contributions through flat rate elements than through usage sensitive rate elements.

#### **COMMENTS ON ACCESS COMPETITION**

In paragraph 47 of the NPRM, the FCC cites IXC concerns that incumbent LECs will price access at a high rate and then sell long distance at a low rate. The IXCs clearly do not understand the concept of "opportunity costs". For example, if an incumbent LEC can sell access

for \$.04 per minute, it would not be financially advantageous to sell toll for \$.03 per minute. The LEC would incur an "opportunity cost" of \$.04 per minute, which is the lost revenue it would have received from the provision of access services. However, even if this were true, HSA agrees with the FCC's conclusion that the provision of unbundled network elements provides the equivalent of a competitive alternative to access customers.

HSA notes that competitive forces do not result in totally unbundled rates for products, nor in prices which reflect long run incremental pricing. For example, auto dealers often bundle options together, so it may be impossible to purchase a rear view mirror with night vision without purchasing an entire mirror package. A movie theater owner does not price popcorn based on incremental cost. Nor would even the most persuasive economist get very far by offering to pay a New York City cab driver the incremental costs associated with a cab ride.

#### **COMMENTS ON ACCESS REFORM AND SEPARATIONS**

The FCC's plan to simply lower interstate access pricing is actually an attempt to reform separations. Many of the reasons why the FCC finds current pricing higher than forward looking costs have to do with separations allocations. Therefore, it would be more appropriate to accomplish such changes through separations reform, involving Joint Board participation. The current proceeding should deal with existing cost levels and include only revisions related to Part 69 allocations and rate structures.

#### **RURAL TELEPHONE COMPANIES ISSUES**

The access market in rural areas is different than in urban areas. Urban areas are characterized by high subscriber density, large businesses, multiple LEC switching centers, facility based access providers and physical presence of interexchange carriers. Such conditions are conducive to competition. However, rural areas are often very remote, with a single transport facility which may run ten or twenty miles (or more). There is seldom more than one wire center or more than one facility based provider. It is unusual to find a physical IXC presence in such locations. Therefore, the conditions for competition are very different than for urban markets and rules should be more flexible and less prescriptive for such areas. In particular, the FCC should offer simplified access structure options to carriers serving rural areas. The granularity of access

structure required by large LECs in urban areas is simply an added administrative burden for rural providers.

### **COMMENTS ON COMMON LINE ACCESS REFORM**

HSA is concerned about the impact of higher access costs in rural areas. Due to lower traffic volumes and longer transport routes it simply costs more to serve rural areas. To the extent rural costs are higher, it will be less attractive to IXC's to serve such areas. Therefore, HSA prefers a bulk billed approach to recovery of Common Line costs not recovered through EUCLs. For example, Common Line charges could be billed to IXC's based upon pre-subscribed lines or percentage of total revenue.

HSA does not believe the FCC should "forebear from the application of section 254(g) to IXC recovery of flat-rate CCL charges", as suggested in paragraph 63 of the NPRM. To allow significantly higher flat-rate charges by IXC's to their rural customers goes directly against the very specific desire of the 1996 Act. It seems clear from the wording of the 1996 Act that the IXC's are to charge the same rates to rural areas as are charged to urban areas.

As described in paragraph 65 of the NPRM, the FCC proposes to eliminate the EUCL cap for additional lines for residential customers and for multi-line businesses. This plan is not appropriate for areas served by rural LECs for the following reasons:

- First, the 1996 Act requires comparable rates for rural areas. No exception is made in the 1996 Act for second residential lines and multi-line businesses.
- Second, the costs for second residential lines and multi-line businesses are less than for first residential lines and single-line businesses due to economies of scale.
- Third, the application of higher rates for second residential lines and multi-line businesses will result in fewer access lines. And, whether loops are priced at embedded costs or forward-looking costs, the cost per loop will be higher if there are fewer loops.

The Notice requests comment on the rate structure for Local Transport service. In general, the existing rate structure represents a reasonable way to recover transport costs. Peak pricing is an attractive concept, although it creates a problem as to how to price off-peak traffic. The FCC should allow LECs to develop their own discount studies for pricing off-peak services. With the experience gained since the transport rates have been restructured, the FCC should allow LECs the option to use actual minutes for calculating Tandem-Switched Transport rates instead of the 9,000 minutes of use required in the existing rules.

The FCC asks comment on the Transport Interconnection Charge (TIC). The Notice considers every possible reason for the existence of the TIC. However, one fact is inescapable. The TIC represents real transport costs which must be recovered. It does not include local loop or local switching costs; nor does it include marketing or commercial office expenses. The separations and access allocations very carefully allocate only transport costs to this rate element, along with related overhead costs. Therefore, especially for rural LECs, the costs currently recovered through the TIC represent real transport costs and should be recovered through local transport rates. Just because the TIC is residually priced through FCC rules, does not mean it is based on residual costs.

#### **COMMENTS ON LOCAL SWITCHING ACCESS STRUCTURE**

The Notice, in paragraph 72 and 73, addresses questions regarding the treatment of the NTS portion of central office equipment. Many Industry participants will recall that Ozark separations procedures, introduced in 1971, included designating a portion of Local Dial Switching Equipment as NTS and allocating it between jurisdictions on SPF. HSA agrees that a portion of central office equipment should be treated as NTS. However, this sounds more like a separations change than an access change. If such a change is made, it should be made optional for rural telephone companies. Further, for LECs which elect to implement such procedures, the NTS portion should be based on studies provided by each LEC. Furthermore, the recovery of such NTS central office equipment costs should be from IXC's based on the pre-subscribed lines.

The Notice, in paragraphs 248 et. seq., recognizes that existing LECs should recover the difference between all prudently incurred costs and any forward looking or proxy costs to be

utilized on a prospective basis. In light of the lack of evidence to the contrary, it is reasonable to assume that all embedded costs have been incurred on a prudent basis. Without knowing the basis for forward or proxy costs, it is impossible to quantify the amount of this difference. If forward looking costs are defined as a basis for access recovery, fair competition would require that the difference between prudently incurred embedded costs and the forward looking cost be recovered over a reasonable period from a mechanism similar to, but distinct and separate from the Universal Service Fund. This "Embedded Cost Equalization Fund" should be available to any local exchange carrier which had facilities in place as of the date of the act.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael T. Skrivan". The signature is fluid and cursive, with a large initial "M" and a stylized "S".

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